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UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

DON'T SHOOT PORTLAND, a nonprofit corporation, in its individual capacity, NICHOLAS J. ROBERTS, in an individual capacity and on behalf of themselves and all others similarly situated, MICHELLE "MISHA" BELDEN, in an individual capacity and on behalf of themselves and all others similarly situated, ALEXANDRA JOHNSON, in an individual capacity and on behalf of themselves and all others similarly situated,

PLAINTIFFS,

v.

CITY OF PORTLAND, a municipal corporation,

DEFENDANT.

Case No. 3:20-cv-00917-HZ

DECLARATION OF J. SCOTT MOEDE

**(In Support of Defendant City of Portland's
Response to Plaintiffs' Motion for Class
Certification)**

I, J. Scott Moede, Chief Deputy City Attorney representing Defendant City of Portland in the above-entitled matter, declare as follows:

1. Attached as **Exhibit 1** is a true and accurate copy of the transcript of proceedings on July 14, 2021, before the Honorable Marco A. Hernandez.

2. Attached as **Exhibit 2** is a true and accurate copy of the parties July 15, 2021, email regarding class discovery – conferral of incident dates.

3. Attached as **Exhibit 3** is a true and accurate copy of Plaintiff Misha Belden’s Response to Defendant City of Portland’ First Set of Interrogatories signed June 7, 2021.

4. Attached as **Exhibit 4** is a true and accurate copy of Plaintiff Thomas Dreier’s Response to Defendant City of Portland’ First Set of Interrogatories signed August 28, 2021.

5. Attached as **Exhibit 5** is a true and accurate copy of Plaintiff Alexandra Johnson’s Response to Defendant City of Portland’ First Set of Interrogatories signed June 7, 2021.

6. Attached as **Exhibit 6** is a true and accurate copy of Plaintiff Nicholas Roberts’ Amended Response to Defendant City of Portland’ First Set of Interrogatories signed November 3, 2021.

7. Attached as **Exhibit 7** is a true and accurate copy of Plaintiff Lester Wrecksie’s Response to Defendant City of Portland’ First Set of Interrogatories signed August 28, 2021.

8. Attached as **Exhibit 8** is a true and accurate copy of excerpts from the Deposition of Plaintiff Thomas Dreier taken December 8, 2021.

9. Attached as **Exhibit 9** is a true and accurate copy of excerpts from the Deposition of Plaintiff Michelle “Misha” Belden taken November 15, 2021.

10. Attached as **Exhibit 10** is a true and accurate copy of excerpts from the Deposition of Plaintiff Alexandra Johnson taken December 3, 2021.

11. Attached as **Exhibit 11** is a true and accurate copy of excerpts from the Deposition of Plaintiff Nicholas J. Roberts taken November 17, 2021.

12. Attached as **Exhibit 12** is a true and accurate copy of excerpts from the Deposition of Plaintiff Lester Wrecksie taken November 18, 2021.

13. Attached as **Exhibit 13** is a true and accurate copy of the parties Email chain from December 17, 2021, Re: DSP Discovery. As of the date of this filing, Plaintiffs' still have not provided any of the outstanding discovery.

14. Review of Alexandra Johnson's Facebook shows facebook live video links for the following dates: June 2-6, 8-12, 15, 19, 21, 23, 25, 27-30, July 2, 4, 7, 10, 2020.

15. Ms. Johnson's Facebook indicates she was streaming through Twitch for the following date: July 11-13, 16-18, 20-21, August 4-5, 7, 10, 12, 14-15, 18, 20, 22, 26, 29-31, September 2, 30, October 14, and 17, 2022; however, these videos are not accessible, or no longer exist.

16. Plaintiff did not at any time confer with defendants regarding new class and subclass definitions throughout class discovery, and Plaintiffs' Motion for Class Certification is the first we have seen the new definitions.

17. Attached as **Exhibit 15** is a true and accurate of video downloaded from Plaintiff Johnson's Facebook page taken June 27, 2020. The video has been clipped from 1:17:00 – 1:20:05, using Windows Photos clipping tool.

18. Attached as **Exhibit 16** is a true and accurate copy of PPB's Forensic & Evidence Division's video take on June 27, 2020 and produced to plaintiffs a FED Video 20-ED-36261 on July 16, 2020.

19. Attached as **Exhibit 17** is a true and accurate copy of excerpts from the Deposition of Lieutenant Franz Schoening taken September 23, 2021.

20. Attached as **Exhibit 18** is a true and accurate copy of excerpts from the Deposition of Independent Police Review Director Ross Caldwell taken December 7, 2021.

21. Attached as **Exhibit 19** is a true and accurate copy of the October 21, 2021 Clarification Memo Regarding Internal Affairs Case 2020-C-0335 bates numbered DON'T SHOOT_157441.

22. Attached as **Exhibit 20** is a true and accurate copy of excerpts from the Deposition of Commander Jeffrey Bell taken October 29, 2021.

23. Attached as **Exhibit 21** is the negotiated agreement with the subheading “XI Addendum of Additional Remedies” between the City and the United States Department of Justice that has been submitted to Portland City Council and subject to a vote by Council, followed by a fairness hearing in the U.S. District Court, District of Oregon.

24. Attached as **Exhibit 22** is a true and accurate copy of excerpts from the October 21-22, 2021, Evidentiary Hearing Transcript on Plaintiffs’ Motion for Contempt.

25. Attached as **Exhibit 23** is a true and accurate copy of excerpts from the Deposition of Captain Robert Simon taken December 10, 2021.

26. Attached as **Exhibit 24** is a true and accurate copy of Plaintiff Misha Belden’s Response to Defendant City of Portland’ First Request for Admissions signed June 7, 2021.

27. Attached as **Exhibit 25** is a true and accurate copy of Plaintiff Don’t Shoot Portland’s Response to Defendant City of Portland’ First Set of Interrogatories signed June 7, 2021.

28. The City currently has five pending lawsuits seeking injunctive relief in connection with alleged First Amendment or Fourth Amendment violations from the 2020 protests. Plaintiffs in these below other lawsuits fall squarely within the definition of Plaintiffs’ First Amendment Class, and generally allege harms that would qualify them as members of Plaintiffs’ Fourth Amendment Subclasses:

- *Evans, Robert, et al. v. City of Portland, et al.*; MCCC Case No. 20CV23349
- *Index Newspapers, LLC, et al. v. City of Portland, et al.*, USDC Case No. 3:20-cv-1035-SI
- *Langvin, Jonathan v. City of Portland*; USDC Case No. 3:21-cv-01595-HZ
- *Wise, Christopher, et al. v. City of Portland et. al.*; USDC Case No. 3:20-cv-01193-IM
- *Wolfe, Philip, et al. v. City of Portland, et al.*, 3:20-cv-01882-BR

29. The City has over 23 open cases against individual officers and the City seeking damages in connection with incidents that occurred during protests in 2020

30. I make this declaration in support of Defendant City of Portland's Response to Plaintiffs' Motion for Class Certification.

I hereby declare that the above statement is true to the best of my knowledge and belief, and that I understand it is made for use as evidence in court and is subject to penalty for perjury.

DATED: February 2, 2022.

/s/ J. Scott Moede

J. Scott Moede